

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PEDRO BANEGAS and KRISTIE PREZIOSO, individually and on behalf of all other persons similarly situated who were employed by LUTHERAN AGUSTANA CENTER EXTENDED CARE AND REHABILITATION, INC. and/or any other entities affiliated with or controlled by LUTHERAN AGUSTANA CENTER EXTENDED CARE AND REHABILITATION, INC.,

12 cv 2390 (FB) (RLM)

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FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.
APR 16 2014

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BROOKLYN OFFICE

Plaintiffs,

-against-

LUTHERAN AUGUSTANA CENTER
EXTENDED CARE AND REHABILITATION,
INC.,

Defendant.

PROPOSED
FINAL ORDER AND JUDGMENT APPROVING SETTLEMENT

1. The parties have made an application, pursuant to Rule 23(e), Fed. R. Civ. P. and 29 U.S.C. § 216(b), for an order approving settlement in the above entitled action ("the Lawsuit") of the claims alleged, in accordance with a Settlement Agreement (the "Agreement"), which sets forth the terms and conditions for the settlement of this lawsuit against Defendants and for dismissal of this lawsuit against Defendants with prejudice upon the terms and conditions set forth therein, and the Court has read and considered the Agreement and the Declaration of Lloyd Ambinder, dated March 31, 2014 ("Ambinder Decl.") and exhibits attached thereto;

2. On December 23, 2013, this Court issued an order preliminarily approving the proposed settlement agreement and providing for notice of the settlement to the class and FLSA claimants.

3. Based on its preliminary review, this Court found that the settlement was fair, just, reasonable, and in the best interest of the Named Plaintiffs and the class as defined in the

proposed settlement agreement. Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, this Court also scheduled a Fairness Hearing on April 11, 2014 at 11:00 to further discuss the terms of the settlement and to provide an opportunity for any objections to be heard.

4. Counsel for Plaintiffs has advised that no individuals have opted-out of the settlement, no written objections to the settlement have been received, and no one has advised that they would be appearing at the Fairness Hearing to voice an objection or otherwise be heard to contest the settlement.

5. The Agreement provides for class counsel attorneys' fees and costs in an amount not to exceed 30%, of the \$2.9 million Settlement Fund inclusive of professional fees, costs as well as class administrator fees and costs. Class Counsel has reduced their proposed fee award to 27%.

6. The Agreement further provides for incentive awards to Named Plaintiffs Pedro Banegas and Kristie Prezioso in the amount of five thousand dollars each (\$5,000.00).

7. The proposed settlement, as set forth in the Agreement, including the award of attorney fees and the incentive award to the above-mentioned Plaintiffs, is approved. This Court is satisfied that the proposed settlement in this action meets both procedural and substantive fairness.

IT IS HEREBY ORDERED, that this Court has jurisdiction over the subject matter of this litigation, and over all parties to this litigation, including all members of the class.

FURTHER, that for purposes of this Order, all terms not otherwise defined herein shall have the same meanings set forth in the Agreement.

FURTHER, that this Court hereby approves the settlement set forth in the settlement agreement and finds that the settlement is, in all respects, fair, reasonable, adequate and in the

best interests of the Plaintiffs and the class members in accordance with Rule 23(e) of the Federal Rules of Civil Procedure, and directs implementation of all its terms and provisions.

FURTHER, that Plaintiffs and all other class members who have not properly and timely exercised their opt-out rights in this lawsuit are hereby conclusively deemed to have released or discharged Defendants from, and are permanently enjoined and barred from asserting, either directly or indirectly, against Defendants, any and all claims released in the settlement agreement. All such matters are hereby finally concluded, terminated and extinguished.

FURTHER, that the notice given to the members of the class accurately informed the members of the class of the proposed settlement, was the best notice practicable under the circumstances, and constituted valid, due and sufficient notice to all members of the class complying fully with Rule 23 of the Federal Rules of Civil Procedure and the United States Constitution.

FURTHER, that the parties are directed to effectuate distribution of the settlement funds to the class claimants as set forth in the Settlement Agreement annexed as Exhibit E to the Declaration of Lloyd Ambinder dated April 3, 2014.

FURTHER, that Class Counsel is awarded \$783,014.03 in attorneys' fees and \$11,041.67 in costs, which includes class administration fees.

FURTHER, that Named Plaintiffs Pedro Benegas and Kristie Prezioso shall each receive an incentive award of \$5,000.

FURTHER, that without affecting the finality of this judgment in any way, this Court hereby retains jurisdiction over consummation and performance of the settlement agreement.

FURTHER, that the Clerk of the Court is directed to close Case 12 cv 2390 on

April 11 2014.

Dated: April 11 2014

F J J
FREDERIC BLOCK

Hon. Frederic Block, United States District Judge